

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA *ex rel.*
CORI RIGSBY AND KERRY RIGSBY

PLAINTIFFS

V.

CIVIL ACTION NO. 1:06cv433-LTS-RHW

STATE FARM INSURANCE COMPANY, *et al.*

DEFENDANTS

ORDER

In the notice [56] filed by the United States of America (Government) indicating that it is not intervening in this cause of action at this time, the Government cited language in 31 U.S.C. § 3730(b)(1) that the “action may be dismissed only if the court and the Attorney General give *written* consent to the dismissal and their reasons for consenting.” (Emphasis supplied). The Government went on to state that “should either the relators or the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court [will] solicit the *written* consent of the United States before ruling or granting its approval.” (Emphasis supplied). The United States Magistrate Judge incorporated this latter language in his [57] Order.

The relators have filed [58] what is entitled a Consented to Dismissal of Complaint Against Defendants Nationwide, USAA, and Allstate. Three statements in the motion are of concern to the Court. The first is that “Relators sought permission of the United States to dismiss without prejudice the aforementioned parties.” This is contrary to the [57] Order. Second, “[o]n or about February 29, 2008 the United States Department of Justice granted permission for Relators to dismiss USAA, Allstate, and Nationwide from this action. A copy of the email sent from the Department of Justice attorney handling this matter is attached as Exhibit A.” There is no Exhibit A, but there is (and this is the third statement) “[a] proposed order . . . attached to this pleading [[58]],” which is innocent enough by itself; however, the proposed order refers to the Court being advised of the government’s consent, which is not the case, and contains no reason why the Court consents. The proposed order also contemplates that the three named insurance companies will be “dismissed without prejudice to the Government’s right to refile.”

The purpose of this order is to carry out the express terms of 31 U.S.C. § 3730(b)(1), the Government’s request in its [56] Notice, and the Magistrate Judge’s [57] Order. Accordingly,

IT IS ORDERED:

The Government’s counsel shall, within ten (10) days of the date of this order, advise the Court in writing whether it consents to the dismissal of the three named Defendants, and, if it

consents, give the reason(s) therefor. The Government shall file its written position electronically on the Court's ECF filing system.

SO ORDERED this the 10th day of March, 2008.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE